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*Liaison Counsel for Direct Action Plaintiffs and Attorneys for Plaintiffs Electrograph Systems, Inc., Electrograph Technologies, Corp., Office Depot, Inc., CompuCom Systems, Inc., Interbond Corporation of America, P.C. Richard & Son Long Island Corporation, MARTA Cooperative of America, Inc., ABC Appliance, Inc., Schultze Agency Services LLC on behalf of Tweeter Opco, LLC and Tweeter Newco, LLC, and Tech Data Corporation and Tech Data Product Management, Inc.*

**UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**  
**SAN FRANCISCO DIVISION**

IN RE: CATHODE RAY TUBE (CRT)  
ANTITRUST LITIGATION

Master File No. 3:07-cv-05944-JST

MDL No. 1917

This Document Relates to:

**DECLARATION OF KYLE SMITH IN  
SUPPORT OF ADMINISTRATIVE**

SMITH DECLARATION IN SUPPORT OF ADMINISTRATIVE MOTION PURSUANT TO CIVIL L.R. 7-11 FOR  
PERMISSION TO BE HEARD AT THE HEARING ON NOVEMBER 23, 2015  
Case No. 07-cv-5944, MDL No. 1917

**MOTION PURSUANT TO CIVIL L.R.  
7-11 FOR PERMISSION TO BE  
HEARD AT THE HEARING ON  
NOVEMBER 23, 2015**

*Best Buy Co., Inc. et al. v. Hitachi Ltd., et al.*,  
No. 3:11-cv-05513

*Best Buy Co., Inc., et al. v. Technicolor SA,*  
*et al.*, No. 13-cv-05264;

*CompuCom Systems, Inc. v. Hitachi, Ltd., et al.*  
No. 2:11-cv-06396;

*Costco Wholesale Corp. v. Hitachi, Ltd, et al.*,  
Case No. 11-cv-06397;

*Costco Wholesale Corporation v.*  
*Technicolor SA, et al.*, No. 13-cv-05723;

*Electrograph Systems, Inc., et al. v. Hitachi,*  
*Ltd., et al.*, No. 3:11-cv-01656;

*Electrograph Systems, Inc., et al. v.*  
*Technicolor SA, et al.*, No. 13-cv-05724;

*Interbond Corp. of Am. v. Hitachi, Ltd. et al.*,  
No. 3:11-cv-06275;

*Interbond Corp. of Am. v. Technicolor SA,*  
*et al.*, No. 13-cv-05727;

*P.C. Richard & Son Long Island Corp., et al.*,  
*v. Hitachi, Ltd., et al.*, No. 3:12-cv-02648;

*P.C. Richard & Son Long Island Corporation,*  
*et al. v. Technicolor SA, et al.*, No. 13-cv-  
05725;

*Schultze Agency Services, LLC v. Hitachi, Ltd.,*  
*et al.*, No. 3:12-cv-2649

*Schultze Agency Services, LLC v. Technicolor*  
*SA, Ltd., et al.*, No. 13-cv-05668;

*Sharp Elec. Corp. v. Hitachi, Ltd., et al.* No.  
3:13-cv-01173;

*Sharp Electronics Corp., et al. v. Koninklijke*  
*Philips Electronics N.V., et al.*, No. 13-cv-  
2776; and

*Tech Data Corp., et al. v. Hitachi, Ltd., et al.*,  
No.13-cv-00157.

1 I, Kyle Smith, hereby declare as follows:

2 1. I am an active member in good standing of the bar of New York. I am associated with  
3 Boies, Schiller & Flexner LLP, Liaison Counsel for Direct Action Plaintiffs and attorneys for Plaintiffs  
4 Electrograph Systems, Inc., Electrograph Technologies, Corp., Office Depot, Inc., CompuCom Systems,  
5 Inc., Interbond Corporation of America, P.C. Richard & Son Long Island Corporation, MARTA  
6 Cooperative of America, Inc., ABC Appliance, Inc., Schultze Agency Services LLC on behalf of  
7 Tweeter Opco, LLC and Tweeter Newco, LLC, and Tech Data Corporation and Tech Data Product  
8 Management, Inc. I submit this Declaration in support of certain DAPs' Motion for Administrative  
9 Relief Pursuant to Civil L.R. 7-11 for Permission To Be Heard at the Hearing on November 23, 2015  
10 (the "Motion").

11 2. On November 18, 2015, I spoke by telephone with Lauren Capurro, lead counsel for the  
12 IPPs, concerning the Motion. Lead counsel for the IPPs stated that they no longer have any interest in  
13 the underlying motion to compel in light of their settlement with the Toshiba entities.

14 3. On November 18, 2015, I e-mailed counsel for the Toshiba entities to seek their consent  
15 to the relief requested in this Motion. Mr. Christopher M. Curran, counsel for the Toshiba entities,  
16 responded that the Toshiba entities do not agree to stipulate to the relief sought in the Motion. Mr.  
17 Curran further stated that the Toshiba entities intend to oppose the Motion. A true and correct copy of  
18 this email exchange with counsel for the Toshiba entities is attached hereto as Exhibit A.

19 4. Accordingly, a stipulation could not be obtained. *See* Civil L.R. 7-11(a).

20  
21 I declare under penalty of perjury that the foregoing is true and correct.  
22 Executed this 18th day of November, 2015 in Washington, DC.

23 /s/ Kyle Smith

24 Kyle Smith  
25  
26  
27

# **EXHIBIT A**

## Kyle Smith

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**From:** Curran, Christopher <ccurran@whitecase.com>  
**Sent:** Wednesday, November 18, 2015 6:06 PM  
**To:** Kyle Smith; Lau, Albie; Foster, Dana  
**Cc:** Craig Benson (cbenson@paulweiss.com); kdavis (kdavis@paulweiss.com); cgmoore@perkinscoie.com; Roman Silberfeld (rmsilberfeld@rkmc.com); Martinez, David (DMartinez@RobinsKaplan.com); Phil Iovieno  
**Subject:** RE: In re Cathode Ray Tube (CRT) Antitrust Litigation; MDL No. 1917

Kyle:

The Toshiba entities do not stipulate to your request, and in fact intend to oppose the request. Please so inform the Court in your administrative motion. Thank you.

Chris

**Christopher M. Curran** | Partner

T +1 202 626 3643 E [ccurran@whitecase.com](mailto:ccurran@whitecase.com)

White & Case LLP | 701 Thirteenth Street, NW | Washington, DC 20005-3807

**WHITE & CASE**

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**From:** Kyle Smith [mailto:ksmith@BSFLLP.com]  
**Sent:** Wednesday, November 18, 2015 5:27 PM  
**To:** Curran, Christopher; Lau, Albie; Foster, Dana  
**Cc:** Craig Benson (cbenson@paulweiss.com); kdavis (kdavis@paulweiss.com); cgmoore@perkinscoie.com; Roman Silberfeld (rmsilberfeld@rkmc.com); Martinez, David (DMartinez@RobinsKaplan.com); Phil Iovieno  
**Subject:** In re Cathode Ray Tube (CRT) Antitrust Litigation; MDL No. 1917

Chris, Albie, and Dana,

Certain of the DAPs (Best Buy, Sharp, Costco, and the nine plaintiffs represented by Boies Schiller) intend to seek permission to be heard, in place of Lead Counsel for the IPPs, at Monday's hearing regarding the Special Master's November 24, 2014 Report & Recommendation granting Plaintiffs' motion to compel depositions of Toshiba witnesses. One attorney would speak on behalf of all of these DAPs.

We are writing inquire whether the Toshiba entities are willing to stipulate this request. Absent a stipulation, the DAPs intend to file an administrative motion seeking this relief tonight, so we ask for your position on this administrative matter as soon as possible.

Best Regards,  
Kyle

**Kyle Smith\***

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\*Admitted in New York only. Practice supervised by members of the firm.

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